

Background Checks: Ensuring the Safety of Children in Child Care



Throughout Virginia, there are nearly 390,000 children under age 6 whose parents are working. The reality is today that parents depend on child care in order to go to work.

National polling shows that parents are concerned about the safety of their children as well as the quality and cost of child care.

Safety starts with a background check for child care providers to ensure that children are not in the care of someone with a violent history.

Background Check Reality

A comprehensive background check (*a fingerprint check of state and federal records, a check of the state child abuse registry, and a check of the state sex offender registry*) can screen out those who should not be in the business of caring for unrelated children.

National polling shows that most parents think that a comprehensive background check is conducted. **The reality is that many states, like Virginia, do not require a fingerprint check against state and federal records.** Instead, states are conducting a check based on an individual name.

For those who want to circumvent the system, a name check is an invitation. An individual can use an alias or change the way they spell their name (i.e., spell Elizabeth with an “s” rather than a “z,” etc.). Because an individual only has one set of fingerprints, it is much more difficult to circumvent the system.

VA Border States Require Fingerprint Checks

- Maryland, D.C., North Carolina, Tennessee and West Virginia require fingerprint checks for child care providers.
- Only Kentucky stands out, like Virginia, where no fingerprint checks are required.

How many states require a fingerprint check rather than a name-based check?

| Number of States Requiring Background Checks for Child Care Centers and Family Child Care Homes | | |
|---|--------------------|--------------------------------|
| Type of Check | Child Care Centers | Small Family Child Care Homes* |
| Fingerprints against Federal Records | 35 | 27 |
| Fingerprints against State Records | 32 | 24 |
| Child Abuse Registry | 46 | 42 |
| Sex Offender Registry | 21 | 19 |

*small family child care homes that require a license to care for six or fewer children (including the provider’s own children in the count of children in care). Source: Child Care Aware of America, <http://www.naccra.org/about-child-care/state-child-care-licensing/background-checks>

In May of 2013, the U.S. Department of Health and Human Services proposed revised child care regulations, which will require improvements in state health and safety policy to better protect children. Those regulations include a requirement for a comprehensive background check for child care providers caring for unrelated children who receive a federal subsidy. It is expected that final regulations will be released in the next few months.

What does Virginia require?

- Background checks are **not** based on fingerprints against state and federal records.
- The sex offender registry is **not** checked.

Military Children – On-Base vs. Off-Base

There are 45,752 children under age 6 whose parents are active duty military; 6,055 children under age 6 whose parents are in the Guard or Reserve. If these parents are lucky enough to find on-base care, the military requires a background check using fingerprints. But, if they use off-base care, the background check is

only as good as the state requires. In Virginia, that's just a name check.

Studies Show Gaps that Leave Children At Risk

While most people who want to become child care providers do so because they love working with and caring for children, that's not always the case. Studies have shown that there are individuals who may not share these goals or who might be a higher risk for children's safety.

A 2011 Government Accountability Office (GAO) report found 24 cases where registered sex offenders were working in child care programs. At least seven of those cases involved offenders who previously targeted children and in three of the cases, such individuals used their positions to re-offend.¹

A 2010 U.S. Department of Justice report found that of the 77,213 background checks of individuals seeking to volunteer to work with children (processed by the National Center for Missing and Exploited Children), 3,298 individuals were found to have flagged offenses involving violent crimes.² A 2003 study of the Federal Child Safety Pilot program found that about 1,920 individuals (6.4 percent) of 30,000 background checks conducted had criminal records.³

In North Carolina, out of 38,000 screenings for child care providers in 2012, 466 were screened out based on criminal offenses.

Why Parents Need Help to Ensure the Safety of Children

Parents can use commercial databases to perform background checks. However, a 2006

Department of Justice report found, *"Not all agencies within individual states make their records available to commercial databases, nor does the FBI make its federal or state criminal records available to commercial services. In addition, the information in commercial databases may only be updated periodically."*⁴

Therefore, the reality is that parents cannot conduct an effective background check on child care providers on their own. Even the most well-financed parent is limited by a commercial company search as evidenced by the Department of Justice findings.

2014 VA State Legislative Action

The Virginia State Legislature approved legislation in March to create a task force to make recommendations to implement a fingerprint-based background check system for child care providers (in centers and homes). Recommendations are due in November.

Child Care Aware of Virginia recommends:

- State legislation conforming with the HHS regulations to require a comprehensive background check (*a fingerprint check of state and federal records, a check of the child abuse registry and a check of the sex offender registry*) for all child care providers caring for unrelated children.
- A portable system so that child care providers do not have to be re-screened if they change jobs.
- A registry of unlicensed providers who have passed background check screening so that parents have the widest array of choices among safe providers.

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¹ U.S. Government Accountability Office (GAO). (2011). Child Care: Overview of relevant employment laws and cases of sex offenders at child care facilities. <http://www.gao.gov/products/GAO-11-757>

² U.S. Department of Justice. (2010). Interim report on the feasibility of performing fingerprint-based criminal history background checks on individuals that participate in National Service Programs. <http://www.justice.gov/oip/docs/interim-report-nsp.pdf>

³ Federal Bureau of Investigation, Criminal Justice Information Services Division. (2003). PROTECT Act pilot program. www.search.org/files/ppt/01-04Nash.ppt

⁴ U.S. Department of Justice, Office of Attorney General. (2006). The Attorney General's report on criminal history background checks. http://www.justice.gov/olp/ag_bgchecks_report.pdf